

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1259 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

VITHALBHAI V BABARIYA

Versus

STATE OF GUJARAT

Appearance:

MR MM TIRMIZI for Petitioner

MR PG DESAI, PUBLIC PROSECUTOR for Respondents

CORAM : MR.JUSTICE A.K.TRIVEDI

Date of Order: 19/08/98

ORAL JUDGMENT

Heard learned Advocate Mr.M.M.Tirmizi for the petitioner and Mr.P.G.Desai, learned PP for the respondents nos.1 and 2.

The petitioner has approached this Court under Articles 226 and 227 of the Constitution to claim the relief that respondent no.2 be directed to dispose of the application made by the petitioner in respect to Tourist Coach bearing No.GJ-3-T-9728 of the petitioner by exercising power under Sections 39, 45, 47, 49, 50, 52, 56, 86, 87 and 88(A) of the Motor Vehicles Act, on merits without insisting that the petitioner should first compound/settle the departmental cases pending against him.

It may be noted that learned Advocate Mr.Tirmizi has stated at Bar that prayer made vide para 25(B) and (C) are not pressed by the petitioner and appropriate order in respect to prayer made in para 25(A) may be passed.

Learned PP, Mr.Desai has placed on record an affidavit filed by respondent no.2.

On appreciation of the facts and circumstances apparent from the material on record, it prima facie, appears that respondent no.2 has no authority or power to compel the petitioner to compound/settle the departmental proceedings without resorting to due process of law. In the present matter as per the allegation of the petitioner, the applications made by the petitioner in respect to Tourist Coach in question have been kept pending by respondent no.2 as a pressure tactic to compel the petitioner to compound the pending matters. Hence, it would be just, proper and reasonable if respondent no.2 is directed to decide the application made by the petitioner in respect to Tourist Coach No. GJ-3-T-9728 by exercising appropriate power conferred by the law and to forward the pending cases (NC Memos) if any, issued against the petitioner to the competent Court for disposal in accordance with law. Hence, Rule is made absolute accordingly. No order as to costs.
